

CC-2010-14

August 17, 2010

Electronic Access, Electronic Filing,
and Electronic Service of Documents
with the United States Tax Court:

Subject: Office-Wide Policies and Protocols

Upon incorporation

Cancel Date: into CCDM

I. INTRODUCTION

On May 6, 2010, the United States Tax Court published an Announcement making electronic filing mandatory in newly filed cases. The requirement applies to all parties represented by counsel for open cases in which the petition is filed on or after July 1, 2010. See http://www.ustaxcourt.gov/eaccess/Mandatory_eFiling_Announcement.pdf.

In Chief Counsel Notice 2010-15, attorneys in the Office of Chief Counsel engaged in Tax Court litigation have been authorized to file documents electronically with the court pursuant to Rule 26 of the Tax Court's Rules of Practice and Procedure. This Notice sets forth the office-wide policies and protocols of the Office of Chief Counsel with respect to the court's electronic access system (eAccess), including electronic filing (eFiling) and electronic service (eService) of documents with the court. The Notice supplements the following Chief Counsel Notices that have described the development of the court's electronic environment:

- CC Notice 2008-004, Tax Court "Practitioner Services" Correspondence (Dec. 7, 2007)
- CC Notice 2008-010, Tax Court Rules Amendments on Privacy Protection and Public Access to Electronic Case Files (Jan. 29, 2008)
- CC Notice 2008-018, New Electronic Access to U.S. Tax Court Files (Sept. 10, 2008)
- CC Notice 2009-007, Electronic Service of U.S. Tax Court Case-Related Documents (Jan. 15, 2009)
- CC Notice 2009-015, United States Tax Court eFiling Pilot Program (May 7, 2009)

II. BACKGROUND

The Tax Court developed a utility, named **eAccess**, which permits the electronic filing and service of documents with the court in lieu of traditional paper documents, as well as the electronic viewing of case-related documents in the court's files. For petitioners' representatives, the system also permits the receipt of documents being served electronically by the court or respondent. The utility is available through the court's website at

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http://www.ustaxcourt.gov/electronic_access.htm. The court is requiring the use of electronic filing in order to streamline document processing and conserve resources.

The court's eAccess system is to be used to electronically file, receive service, and view documents only by those active Tax Court practitioners (and petitioners) who previously registered for remote electronic access to the court's files, agreed to eAccess's "Terms of Use," and consented to receive electronic service (eService) of case-related documents issued by the court or filed by the opposing party. In addition, except for the filing of the initial pleading, these actions in a particular case may be performed only by the counsel of record (or their delegate) in that case.

This Notice sets forth office-wide procedures and protocols with respect to the following matters:

- eAccess registration requirements
- Consent to eService and informational e-mails from the Tax Court
- Counsel of record requirements
- eService procedures
- View limits and procedures for case-related documents
- Format for eFiled documents
- Naming conventions for eFiled documents
- Timeliness and resubmission of eFiled documents
- Review and tracking of eFiled documents
- Rejected document procedures
- Legal file maintenance
- Use of support staff and paralegals under eAccess

III. REGISTRATION PROCEDURES FOR ATTORNEYS IN THE OFFICE OF CHIEF COUNSEL

A. Requirement to register for eAccess: All attorneys in the Office of Chief Counsel engaged in Tax Court litigation are required to register for eAccess in order to remain in active status as a member of the Tax Court's bar. Instructions for registration were previously provided in Chief Counsel Notice 2008-004, Tax Court "Practitioner Services" Correspondence (Dec. 7, 2007). Practitioners who were members of the Tax Court's bar in 2007 received correspondence from the court transmitting a temporary user name and password with instructions on how to complete the registration process. Newly admitted practitioners are sent this information with their admission certificates. If you did not receive or have misplaced this correspondence from the court, you should contact the court's Admissions Section at 202-521-4629 and request that instructions and information for eAccess registration be sent to you. The temporary user name and password provided by the court are valid for 30 days after the date listed on the instructions accompanying the temporary user name and password.

If you are unsure of your registration status, you may contact PA Special Counsel George Bowden, who maintains a list of unregistered attorneys, by phone at 202-622-3400, or by e-mail. The Tax Court will be periodically provided with an updated list of our attorneys who are members of the Tax Court's bar, so that the court can have an up-to-date list of IRS attorneys to facilitate eFiling. Each office must update the list appearing on the SharePoint site so that accurate lists may be transmitted to the court. At least one person in each post-of-duty has been granted permission to edit the document. Others wishing read-only access may contact George Bowden

regarding a SharePoint system access request. The SharePoint site may be accessed at http://administrative.prod.irsounsel.treas.gov/tax_court_bar_db/default.aspx

B. Consent to eService and informational e-mails from the court: During the eAccess registration process for new registrants, you will be prompted to complete on-screen questions on whether you consent to eService and informational e-mails from the court. **Attorneys in the Office of Chief Counsel are now to select "YES" in response to the requests for consent to eService and informational e-mails from the court.** This procedure reverses the instructions previously published in Chief Counsel Notice 2009-007, Electronic Service of U.S. Tax Court Case-Related Documents (Jan. 15, 2009), which directed Chief Counsel attorneys not to elect to consent to electronic service and to rescind any consent that was given earlier. By letter of August 17, 2010 to the Chief Judge, our office formally notified the court that the respondent, as a whole, has now consented to electronic service of documents electronically filed by the opposing party and documents served by the court through the eAccess system. **(Due to computer security restrictions, the Office is not able to consent to electronic service of documents served by the opposing party but not filed with the court, such as discovery requests, that are not transmitted via eAccess.)** Accordingly, individual attorneys who previously registered for eAccess and complied with the instruction not to consent to electronic service need not log on to their practitioner accounts in order to change their consent option to "YES" for eService. Instead, the court will consider any registered attorney in the Office of Chief Counsel to have automatically consented to eService.

IV. RESPONDENT'S COUNSEL OF RECORD

A. Initial designation of respondent's counsel of record: Pursuant to I.R.C. § 7452, the Commissioner is represented before the Tax Court by the Chief Counsel or his delegate; accordingly, respondent's attorneys do not file entries of appearance in Tax Court cases or follow the procedures for withdrawal and substitution of counsel prescribed in Tax Court Rule 24. Identification of our office's attorneys of record in individual cases historically has been necessary only for trial, briefing, and opinion, and was not noted on the court's docket records. The advent of the eAccess system now requires the court to designate individual attorneys as counsel of record on the court's docket records because most eAccess activities may only be performed by counsel of record in a case.

In lieu of the filing of entries of appearance, the Tax Court will designate as respondent's counsel on its docket records those attorneys whose signatures and bar numbers appear on the first document (pleading or motion) filed by respondent in each new case. If multiple attorneys sign the document, each attorney signing the document will be designated as respondent's counsel. The court will place up to five attorneys signing the initial pleading on the docket record. The eAccess system now permits the electronic filing of an answer or initial motion (such as a motion to dismiss) in a new case by an attorney even though there is no counsel of record for respondent yet designated in the case.

Attorneys can verify that they have been designated as respondent's counsel in a case by checking the on-line docket sheet through Docket Inquiry on the court's website. After the initial document (pleading or motion) has been transmitted to the court, the assigned attorney should verify that the document has been filed and that as a result, the attorney is listed as respondent's counsel on the court's docket sheet. If the document has been filed but no one is listed as respondent's counsel on the docket sheet, attorneys should inform PA Special Counsel Peter Reilly at 202-622-7071 or through e-mail and he will contact the court for appropriate corrective action.

B. Adding additional counsel for respondent: An attorney designated as counsel for respondent on a case docket record may add additional counsel for respondent to that case, apparently without limit. In order to ensure coverage in the event of absences, each Tax Court case must have at least two attorneys in the Office of Chief Counsel designated as counsel of record on the court's docket records, one of whom should be a manager. If only one attorney signs the initial pleading that establishes that attorney as counsel of record, that attorney shall add a manager to the case record at the time of the filing of the initial pleading. Managers are responsible for cases assigned to their attorneys whether or not they are listed as counsel of record on the court's docket records.

Upon confirmation that the attorney is listed on the court's docket sheet, the assigned attorney should log on to Practitioner Access on the court's website, request a listing of open cases, and add to the docket record the attorney's immediate supervisor (typically the Associate Area Counsel assigned to the case). Local offices may decide to add additional counsel of record. For example, an office may decide to add the Area Counsel to each case record. If there are additional attorneys assigned to the case, e.g., trial team members, the initial attorney may wish to add them to the case record. In coordinated cases in which a National Office attorney who is admitted to the Tax Court is a member of the trial team, the National Office attorney may also be added as another counsel of record on the court's docket sheet.

C. Transfer/reassignment of cases: If a case is reassigned or transferred after it is answered, the Associate Area Counsel (or delegate) whose name appears on the case record shall (1) add the Associate Area Counsel of the transferee office to the case record (assuming transfer to a different office and/or Area), and (2) remove the name of the original assigned attorney from the case record. Upon receipt of the case file from the transferring office, the new Associate Area Counsel will (1) add the name of the newly assigned docket attorney to the case record; and (2) remove the name of the original Associate Area Counsel from the docket record. Prior to transferring or reassigning a case to a different office or Area, the transferor office should communicate with the transferee office to inform that office of the transfer, and to confirm the identity of the manager in the transferee office who will be added to the case record.

An attorney listed as one of respondent's representatives may remove other attorneys from the case. In addition, eAccess allows the mass removal of an attorney from all cases in which the attorney is counsel of record, for example, if that attorney leaves the employ of the Office of Chief Counsel. Because of these new capabilities, the court has adopted a procedure of naming a "default" National Office attorney as counsel of record in the event that all attorneys for respondent are removed from the case record. At this time, the "default" National Office attorney is PA Special Counsel Peter Reilly. Note that petitioners' representatives cannot use this procedure to add or change counsel in a case. Instead, petitioners' representatives are governed by Tax Court Rule 24, which sets forth the requisite procedures for entering appearances, withdrawing appearances, and substituting counsel in a case.

V. eSERVICE PROCEDURES FOR CHIEF COUNSEL ATTORNEYS

A. Docket, Records & User Fee Branch (DRU) processing of Tax Court documents: Commencing on May 26, 2009, Tax Court discontinued serving documents on our office in paper form. With certain exceptions, such as documents in sealed cases, case-related documents are served by the court as three separate electronic files, one for petitions, one for trial calendars, and one for all the remaining documents being served on a particular day ("docket"). Once the documents are received electronically from the court, they are imported into Chief Counsel's

internal electronic service system, named eTCS, for processing by the DRU staff. Once the documents have been processed in the eTCS system, an e-mail message with a subject line of "Routing Report" will be sent to each field office receiving documents that day. An individual Routing Report that lists the docket number, case name, and type of document is sent for each of the three different types of files: petitions, calendars, and dockets. Upon receiving the Routing Reports, the responsible field office person, as defined by the managing counsel for each office, is to log on to the eTCS to retrieve and print the documents. To ensure receipt of all documents, the Routing Reports must be reconciled with the TLCATS transmittals. Sealed cases and ancillary documents will continue to be served on the Service as hard copy documents and these documents will be processed and mailed to the respective offices from DRU. An e-mail message is sent to the affected office to ensure the office is aware that paper copies of documents of sealed cases are being sent.

B. Receiving documents from the court electronically: Rule 21(b) authorizes electronic service of documents through the eAccess system. As discussed above, official electronic service of documents on the Commissioner is made on the National Office under a centralized procedure that facilitates the distribution of incoming work from the court in an organized manner with appropriate management controls and backup procedures, and is the equivalent of the paper service previously made on the National Office. Unlike petitioners' representatives, we do not receive individual official or courtesy electronic service from the court. Instead our Office receives incoming work from the court exclusively via the eTCS system. Dispositive orders and decisions entered by the court will still be served on the parties in paper form.

C. Responsibility of assigned attorney: The Office shall continue to rely on DRU Branch processing of electronically served documents for input into TL-CATS. Individual attorneys are encouraged to regularly log on to the court's website to check whether any documents served by the court in their cases may have been omitted from processing by the DRU Branch. If any such documents are identified, the assigned attorney should immediately contact Michael Parker, Director, Legal Processing Division, via e-mail so that corrective action may be taken. An e-mail may also be sent to the "Tax Court Document Requests" or "Tax Court Service" dedicated e-mail inboxes on Outlook.

VI. VIEWING DOCUMENTS VIA eACCESS

A. Documents viewable through eAccess: Registered users may view case information and documents filed after March 1, 2008, in their cases by logging on to Practitioner Access. After logging on to Practitioner Access, a user may call up a list of his or her cases by clicking on the "My Cases" link. Clicking on a docket number on the list will display the case index, which is the list of filings and proceedings in the case. For documents filed after March 1, 2008, a "View" hyperlink and a number of pages of the document appears in the "Document" column on the far right side of the screen. Selecting "View" launches Adobe Acrobat Reader and displays the document within the browser window. The document may be saved or printed in the same manner as any PDF file.

Generally, exhibits to documents may not be viewed unless filed electronically. Also, documents that have been sealed by the court and documents in "D" (disclosure) cases may not be viewed electronically. Transcripts of hearings and trials are not electronically viewable earlier than one year following a proceeding. Documents filed after March 1, 2008, are viewable through eAccess for up to 120 days after a case is closed.

B. View limits for eAccess documents: Registered parties (petitioner, counsel, or respondent) may electronically view each document in a case a total of three times only through eAccess. (Petitioners' representatives and registered parties also receive an additional "service view" of documents that are being electronically served.) This means that registered attorneys may share only three views of each document in a case. After a user has viewed a document three times through eAccess, the document is no longer accessible to that party through eAccess. A document may be saved or printed, however, each time it is viewed through eAccess. Note that documents available to the public through Docket Inquiry or Opinions Search -- opinions, orders, decisions, and docket records -- may be viewed an unlimited number of times.

C. Requirement to save eAccess viewed documents: The first time a document whose views are limited is viewed through eAccess, the viewing attorney shall notify the other attorneys on that case record that the document has been viewed. The viewing attorney shall then save the document to an electronic file during the first view. The viewing attorney should also consult with the other attorneys assigned to the case to determine whether to print the document and/or e-mail the saved file to the other team members. The remaining two views of the document should be saved for access only when critically necessary and should not be utilized without coordination among all team members.

In most situations, attorneys should not need to view documents through the eAccess system. Documents that are served on respondent are viewable by anyone in Counsel without limit through the eTCS system, and attorneys should have retained copies available of any documents they file with the court. Counsel attorneys should therefore rarely, if ever, need to utilize eAccess to view Tax Court documents.

VII. eFILING OF DOCUMENTS WITH THE TAX COURT

A. Mandatory eFiling Requirement: On May 6, 2010, the Tax Court published an Announcement on its website making electronic filing mandatory in newly filed cases.
http://www.ustaxcourt.gov/eaccess/Mandatory_eFiling_Announcement.pdf.

Other than the pleadings that commence a proceeding, such as a petition or a notice of appeal, which require an original signature, all documents in new cases must now be filed electronically. The requirement applies to all parties represented by counsel for open cases in which the petition is filed on or after July 1, 2010. The only exceptions to the mandatory eFiling requirement are (1) for pro se petitioners, including those pro se petitioners assisted by low-income taxpayer clinics and Bar-sponsored pro bono programs that participate in Tax Court calendar calls; (2) for practitioners who apply to the court for and are granted relief from the eFiling requirement based on good cause; and (3) for documents not eligible for eFiling, such as petitions and sealed documents.

Any request for an exception from eFiling does not alter preexisting deadlines, and therefore the paper document should be timely lodged with the motion for an exception. It will be the rare and unusual occurrence for attorneys in the Office of Chief Counsel to request any exception from eFiling; any such request must be supported by good cause and approved by a manager. Any document required to be eFiled that is submitted on paper, absent an exception, will be rejected for filing by the Clerk's office. A courtesy paper copy of any eFiled document in excess of 50 pages is required to be delivered to the assigned judge in the case, or the Chief Judge if no judge is assigned.

In addition to new cases, that is, those filed after July 1, 2010, once a user eFiles a document in an existing case, all subsequent documents in that case, except for ineligible documents, such as

those under seal, must be filed electronically, unless leave of court is obtained by motion to file the document on paper. Managerial approval is required prior to eFiling a document in a pre-July 1, 2010 existing case not subject to the mandatory eFiling requirement.

B. Documents that may be eFiled: In general, all documents other than initial filings commencing an action requiring an original signature, such as a petition, are eligible for electronic filing. Generally, for respondent's filings, all documents are to be filed electronically. Exceptions: 1) documents requiring an original signature must be filed on paper, including stipulated decisions and notices of appeal, and are more fully described below; 2) documents larger than 25 megabytes, which is approximately 500 scanned pages depending on the number of images in the document, must be filed in paper form unless the court increases or waives the limit on a case-by-case basis; 3) all documents in disclosure cases, which are identified by having a "D" affixed to the docket number, must be filed in paper form; and 4) all documents in sealed cases, including motions to seal a document or an entire case and responses to those motions, must be filed in paper form. The court's website has instructions for eFiling that include a table showing the various types of documents that are filed with the Tax Court, and whether those documents are eligible for eFiling. You can find those instructions at http://www.ustaxcourt.gov/eaccess/eFiling_Instructions_Practitioners.pdf.

The eAccess system permits attorneys to electronically file an answer or other initial responsive document in a new case, such as a motion to dismiss, even though there is no counsel of record yet designated for respondent in the case. The procedure for eFiling an initial document in a new case is set forth in the job aid. Once the case has been answered (or other initial document filed) and counsel of record for respondent designated on the court's docket record, only a counsel of record in the case will be able to file documents electronically in that case.

C. Format for eFiled documents: The court has specified that documents filed electronically must be in either the portable document format (PDF) or tagged image file format (TIFF). The file name must have the appropriate extension for the chosen format (.pdf, .tiff, or .tif). We have made a business decision that all of our documents, which are eFiled, will be submitted in the PDF format. Documents created using Microsoft Word software should be converted to the PDF format using the appropriate command within the MS Word software. Alternatively, documents may be converted to PDF format through the use of third-party PDF creation software such as Adobe Acrobat, or may be scanned to the PDF format. Users must confirm that scanned documents are legible before eFiling them or risk rejection by the court.

D. Naming convention for respondent's documents: Files containing our documents will be named using the following convention: [case name - individual last name or corporate keyword][docket number][document title].pdf. Examples: (1) Smith_9876-54_Answer.pdf ; (2) Century_12345-67_Motion_Summary_Judgment.pdf ; PyramidLLC_0192-38_Rule91fmotion.pdf. This naming convention will be uniform throughout our office.

E. Timeliness and resubmission of eFiled documents: The Tax Court considers an eFiled document to be timely if it is transmitted via eAccess no later than 6:00 a.m. Eastern time on the day after the due date. Managerial approval is required for a late transmission if a document cannot be eFiled within normal business hours prior to the due date. If you discover an error in a document you submitted electronically and have not received notification that it was accepted or rejected, you may submit a replacement document. A document may be resubmitted only once. An eFiler cannot resubmit a document after it has been accepted, but may file a motion to substitute, a motion to supplement, or a motion to amend the eFiled document in accordance with the Tax Court Rules of Practice and Procedure.

Note: If a paper certificate of service is required, it, along with the document, must be dated and put in the mail on or before the due date. The extension to 6:00 am ET the following morning for eFiling does **not** apply to the mailing of service copies.

When resubmitting an eFiling, the document is considered timely filed only if it is resubmitted before 6:00 a.m. Eastern time on the day after the last day for filing. Therefore, if the initial submission is submitted by 6:00 a.m. Eastern time on the day after the due date, but the resubmission is not, the document is not timely filed.

F. Review and Tracking of eFiled documents: All internal review requirements for Tax Court submissions now required for paper filings remain unchanged for documents filed electronically. After the assigned attorney or paralegal drafts the document, it must be forwarded to local office management, Finance & Management, or the National Office for pre-filing review as required by the CCDM or local procedures. Upon completion of the required review and confirmation that the document is complete and that scanned documents are legible, the assigned attorney or paralegal is to forward the legal file and transmit the final electronic .pdf version of the document to F&M (via e-mail or through use of a shared drive) for eFiling with the court, unless the assigned attorney or paralegal undertakes, with managerial approval, to personally eFile the document.

After verifying that the electronic document is complete and any scanned documents are legible, F&M or the assigned attorney or paralegal will eFile the document, using the username, password, and other logon information of the assigned counsel of record in the case, by following the procedures described above. The eAccess screen that displays the transaction number for each eFiling upon its submission shall be printed immediately and filed in the case legal file. A second copy of the transaction number screen shall be printed and placed in the office file for Tax Court eFilings.

Similar to the procedures now used with paper filings, F&M personnel who eFile a document will create the necessary record of the filing on TL-CATS and any suspense event resulting from the submission. If the assigned attorney or paralegal personally eFiles a document, an e-mail identifying or attaching the document and the transaction number generated by eAccess shall be sent to F&M immediately upon submission of the document, to facilitate the required TL-CATS input. F&M shall maintain a daily listing of every electronic submission to the court, whether performed by support staff or by the assigned attorney or paralegal, and will verify on a daily basis that the documents have been either accepted or rejected by the court for filing.

G. Rejected document procedures: An e-mail notification from the court will be sent if your submission was rejected for filing. The e-mail includes a reference to the case docket number as well as the transaction number of the document submitted electronically. A copy of the e-mail rejection notification is also sent to Procedure and Administration. Procedures for handling rejected documents are described below. Because it is possible that such a notification may have been intercepted by a "junk" e-mail filter, the court's on-line docket sheet should be routinely checked to confirm the filing. Attorneys who are expected to be absent from the office should utilize an auto-forward rule on the e-mail system to automatically forward any e-mail messages from the Tax Court to their supervisor or other person designated to act for them in their absence. If an e-mail is received stating that the court has rejected the document for filing, a paper copy of the e-mail is to be printed and filed in the case legal file. In addition, the e-mail from the court and an electronic copy of the rejected document is to be promptly forwarded to the attorney's or paralegal's supervisor and to Special Counsel Peter Reilly in Procedure and Administration.

H. Serving documents on the opposing party electronically: Documents electronically filed may be electronically served; documents not filed electronically must continue to be served on paper. If a practitioner, a party, or other person to be served, such as an intervenor, registers on eAccess and consents to eService, then the court will effectuate eService of electronically filed documents. The Designated Service Person is the practitioner designated by the court or by petitioner's counsel to receive service of documents in a case. The court effectuates eService by sending an e-mail notification to the Designated Service Person that there is a document awaiting electronic service in their case. The person to be served then logs on to eAccess and downloads the document by using the "View" link on the Service Documents screen. The Interim Procedures for electronic filing that were announced by the court in 2005 when it proposed Interim Rule 22A state that the notice of filing of an electronic document is treated as the certificate of service of that document. If a party consents to eService, the actual process of effectuating electronic service is automatic, and is performed by the court and the party receiving service.

Whether consent has been given for eService is displayed by the eAccess system on the eFiling screen when the case record is retrieved for eFiling a document. If the opposing party, counsel, or other person to be served has not consented to eService, we must continue to make service in paper form in accordance with Rule 21(b), attaching a paper certificate of service to the service copy of the document. The eFiled document must include a certificate of service or an eFiler may transmit a stand-alone PDF version of a certificate of service with the eFiled document.

If a notification of eService is returned (bounces back) as undeliverable to the court's e-mail system, the election to receive eService automatically is deemed revoked so that future documents will need to be served in paper form. To restore eService, the Designated Service Person must log in to Practitioner Access and update the eService preference and e-mail address. The same procedure would apply to a party whose notification of eService bounces back. Accordingly, you need to confirm whether an opposing party or counsel's consent to electronic service is still in effect when eFiling a document. Registered users other than the Designated Service Person who have consented to eService will receive courtesy electronic service in their case(s). The Designated Service Person procedure does not apply to the Office of Chief Counsel because official service of documents is made centrally on the National Office.

I. Legal File Maintenance: As soon as it is determined what type of service is required (paper or electronic), which information is displayed on the eFiling form as described above, the case legal file is to be prominently marked with an indicator reflecting the type of service required. Each office should acquire a stamp or other clearly visible marker stating either "PAPER SERVICE" or "ELECTRONIC SERVICE" and place the marker prominently on the legal file as soon as practicable.

After submitting an eFiled document, the eAccess system will generate a transaction number for each eFiling submission. The screen showing the submission's transaction number must be printed immediately and filed in the case legal file so that a record of the transaction number will be readily available. Likewise, if resubmitting a previously transmitted document, the screen showing the resubmission's transaction number should be printed for filing in the case legal file. The screen print containing the transaction number should be placed in the legal file on top of a copy of the document as transmitted. A second copy of the transaction number screen must be printed and placed in the office file for Tax Court eFilings. The transaction number is a necessary reference in the event your eFiling is rejected by the court, and is referenced in the e-mail from the court along with the case docket number notifying you of a rejected document. As discussed

above, if an e-mail is received stating that the court has rejected the document for filing, a paper copy of the e-mail is to be printed and filed in the case legal file.

VIII. USE OF SUPPORT STAFF AND PARALEGALS UNDER eACCESS

A. Sharing of eAccess usernames and passwords with support staff: The eAccess system may only be used under the username and password of a registered practitioner (or party). The court will not issue usernames and passwords to non-parties or non-practitioners. Accordingly, support staff and paralegals performing eAccess activities must log on to the system using the username, password, and other logon information of one of our counsel of record in the case in which the activity is being performed. To facilitate this procedure, each office must maintain a confidential database containing each attorney's and manager's username, password, bar number, the name of the eAccess security image selected by the attorney, and answer to the eAccess security question selected by the attorney. This information will only be used to facilitate eFiling. The court has been informed and accepts that usernames and passwords will be shared with support staff performing eAccess activities on behalf of attorneys in the Office of Chief Counsel. Accordingly, this sharing of passwords and other logon information is authorized and presents no ethical, security, or other concerns.

eFiling is simply another mode for transmitting documents to the Tax Court. Our procedures and controls for eFiling should follow, to the greatest degree possible, those used for filing paper documents with the court. F&M staff are responsible for the transmission of paper documents to the court and will, therefore, be responsible for the transmission of eFiled documents to the court. In performing these tasks, the F&M staff will be acting as the delegates of the attorneys on whose behalf they eFile documents. Just as they are today with paper documents, attorneys remain responsible for all documents filed with the Tax Court. Managerial approval is required for those rare instances when an employee other than F&M staff may eFile a document.

B. Responsibility to guard against improper use of usernames and passwords: The "Terms of Use" that each attorney agreed to upon registering for eAccess states that each registrant is "responsible for preventing unauthorized use of [his or her] User ID and password." The sharing of passwords and other information must be limited to those with a need to know the login information for eFiling purposes. The login information must be maintained in a secure environment so that it is not accessible to anyone other than those with a need to use it to eFile on the attorney's behalf.

Any questions concerning the foregoing may be directed to Richard Goldman at 202-622-7950 or George Bowden at 202-622-3400.

/s/
Deborah A. Butler
Associate Chief Counsel
(Procedure & Administration)